

In the Matter of Amruta More, Department of Human Services
DOP Docket No. 2005-4813
(Merit System Board, decided November 3, 2005)

Amruta More, a Habilitation Plan Coordinator with the Green Brook Regional Center, Department of Human Services, appeals the denial of sick leave injury (SLI) benefits.

The appellant filed an Employer's First Report of Accidental Injury or Occupational Disease which indicated that on April 21, 2005, she injured her hip and lower back as she was walking down the stairs from the seventh floor of her building due to a fire drill evacuation. The appellant was treated by a State-authorized physician and diagnosed with a left hip strain and sprain. The physician referred the appellant to an orthopedist since she previously had her hip replaced. On April 22, 2005, the appellant was evaluated by Dr. James W. Cahill, a State-authorized orthopedist, who diagnosed the appellant with a sprain to her lumbosacral spine. As a result of her injuries, the appellant was absent from work from April 22, 2005 through April 27, 2005.

The appointing authority denied the appellant's request for SLI benefits on the basis that she aggravated a preexisting condition. *See N.J.A.C. 4A:6-1.6(c)2.*

On appeal to the Merit System Board (Board), the appellant maintains that her injury occurred during work hours and on the work premises. She submits documentation indicating that she received SLI benefits for injuries to her lumbosacral spine on two previous evacuations which occurred on September 11, 2002 and October 1, 2002. Therefore, the appellant asserts that SLI benefits should be granted. It is noted that the appellant does not submit medical documentation indicating that her current injury was not an aggravation of a preexisting condition.

In response, the appointing authority maintains that the appellant injured a preexisting condition to her left hip. It relies on the medical documentation indicating that the appellant currently sustained a left hip strain and sprain and previously had her left hip replaced. Therefore, the appointing authority contends that SLI benefits should be denied.

CONCLUSION

According to uniform SLI regulations, in order to be compensable, an injury or illness resulting in disability must be work related and the burden of proof to establish entitlement to SLI benefits by a preponderance of the evidence rests with the appellant. *See N.J.A.C. 4A:6-1.6(c)* and *N.J.A.C. 4A:6-1.7(h)*. *N.J.A.C. 4A:6-1.6(c)2* provides that preexisting illnesses, diseases and conditions aggravated by a

work-related accident or condition of employment are not compensable when such aggravation was reasonably foreseeable. The reasonably foreseeable standard has been interpreted by the Board and the Appellate Division of the Superior Court. See *In the Matter of Brian Langdon*, Docket No. A-6512-98T5 (App. Div. October 10, 2000); *In the Matter of Nan Long-Seavey*, Docket No. A-652-96T1 (App. Div. April 27, 1998); *In the Matter of Patricia Culliton*, Docket No. A-4886-89T3 (App. Div. April 8, 1992). For example, in *In the Matter of Brian Langdon, supra*, the Appellate Division found that it was reasonably foreseeable for a Correction Sergeant with a prior knee injury, which a doctor said would never return to the normal state that was present prior to the injury but who was cleared to return to work without limitation, to aggravate that injury when responding to an emergency call. Further, in *In the Matter of Nan Long-Seavey, supra*, the Appellate Division found that an automobile accident was a reasonably foreseeable event for a Public Health Representative whose job duties required that she do substantial car travel and who had a history of neck and back problems.

In the instant matter, the medical documentation in the record demonstrates that the appellant aggravated a preexisting condition in her lumbosacral spine and left hip. The appellant has not submitted any medical documentation indicating that her current injury is not an aggravation of a preexisting condition. Further, regarding whether the appellant's injury was reasonably foreseeable, the Board finds that it was reasonably foreseeable that the appellant could aggravate her preexisting condition as a result of her participation in an evacuation drill since evacuations drills are within the ordinary realm of the everyday work environment. See e.g., *In the Matter of Beatrice Quartey* (MSB, decided September 7, 2005) (Board determined that a Charge Nurse's hitting of her knee against a desk was a result of her everyday work environment, and thus, the aggravation of her preexisting knee condition was reasonably foreseeable); *Compare, In the Matter of Michael Lincoln* (Board determined that slipping on a banana peel in a stairwell was not within the ordinary realm of the work environment of a Correction Sergeant, when that stairwell was not located in a place one would expect to find garbage and/or food). Accordingly, a thorough review of the record indicates that the denial of SLI benefits by the appointing authority was proper and consistent with uniform SLI criteria and the appellant has failed to meet her burden of proof in the matter.

ORDER

Therefore, it is ordered that this appeal be denied.

This is the final administrative determination in this matter. Any further review should be pursued in a judicial forum.